

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter I of the Patent Cooperation Treaty)

(PCT Rule 44bis)

Applicant's or agent's file reference 2003/CVG018	FOR FURTHER ACTION		See item 4 below
International application No. PCT/EP2004/008230	International filing date (day/month/year) 23 July 2004 (23.07.2004)	Priority date (day/month/year) 30 July 2003 (30.07.2003)	
International Patent Classification (8th edition unless older edition indicated) See relevant information in Form PCT/ISA/237			
Applicant CELANESE VENTURES GMBH			

1. This international preliminary report on patentability (Chapter I) is issued by the International Bureau on behalf of the International Searching Authority under Rule 44 bis.1(a).
2. This REPORT consists of a total of 11 sheets, including this cover sheet.

In the attached sheets, any reference to the written opinion of the International Searching Authority should be read as a reference to the international preliminary report on patentability (Chapter I) instead.

3. This report contains indications relating to the following items:

- | | |
|-------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <input checked="" type="checkbox"/> Box No. I | Basis of the report |
| <input checked="" type="checkbox"/> Box No. II | Priority |
| <input checked="" type="checkbox"/> Box No. III | Non-establishment of opinion with regard to novelty, inventive step and industrial applicability |
| <input checked="" type="checkbox"/> Box No. IV | Lack of unity of invention |
| <input checked="" type="checkbox"/> Box No. V | Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement |
| <input type="checkbox"/> Box No. VI | Certain documents cited |
| <input checked="" type="checkbox"/> Box No. VII | Certain defects in the international application |
| <input type="checkbox"/> Box No. VIII | Certain observations on the international application |

4. The International Bureau will communicate this report to designated Offices in accordance with Rules 44bis.3(c) and 93bis.1 but not, except where the applicant makes an express request under Article 23(2), before the expiration of 30 months from the priority date (Rule 44bis .2).

	Date of issuance of this report 29 May 2006 (29.05.2006)
The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland	Authorized officer Ellen Moyse
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PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

Translation

PCT

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

To:

Date of mailing
(day/month/year)

Applicant's or agent's file reference

2003/CVG018

FOR FURTHER ACTION

See paragraph 2 below

International application No.

PCT/EP2004/008230

International filing date (day/month/year)

23.07.2004

Priority date (day/month/year)

30.07.2003

International Patent Classification (IPC) or both national classification and IPC

Applicant

CELANESE VENTURES GMBH

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☒ Box No. II Priority
- ☒ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☒ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☒ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

2. **FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA/EP

Authorized officer

Facsimile No.

Telephone No.

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/EP2004/008230

Box No. I

Basis of this opinion

1. With regard to the language, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
☐ This opinion has been established on the basis of a translation from the original language into the following language
_____, which is the language of a translation furnished for the purposes of international search (under Rule 12.3 and 23.1(b)).
2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material
☐ a sequence listing
☐ table(s) related to the sequence listing
 - b. format of material
☐ in written format
☐ in computer readable form
 - c. time of filing/furnishing
☐ contained in the international application as filed.
☐ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

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Box No. II

Priority

1. ☒ The following document has not yet been furnished:

☒ copy of the earlier application whose priority has been claimed (Rule 43bis.1 and 66.7(a)).

☐ translation of the earlier application whose priority has been claimed (Rule 43bis.1 and 66.7(b)).

Consequently it has not been possible to consider the validity of the priority claim. This opinion has nevertheless been established on the assumption that the relevant date in the claimed priority date.

2. ☐ This opinion has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rules 43bis.1 and 64.1). Thus for the purposes of this opinion, the international filing date indicated above is considered to be the relevant date.

3. Additional observations, if necessary:

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INTERNATIONAL SEARCHING AUTHORITY

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Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non obvious), or to be industrially applicable have not been examined in respect of:

☐ the entire international application

☒ claims Nos. 6-9

because:

☐ the said international application, or the said claims Nos. _____
relate to the following subject matter which does not require an international preliminary examination (*specify*):

☐ the description, claims or drawings (*indicate particular elements below*) or said claims Nos. _____
are so unclear that no meaningful opinion could be formed (*specify*):

☐ the claims, or said claims Nos. _____ are so inadequately supported
by the description that no meaningful opinion could be formed.

☒ no international search report has been established for said claims Nos. 6-9

☐ the nucleotide and/or amino acid sequence listing does not comply with the standard provided for in Annex C of the Administrative Instructions in that:

the written form

☐ has not been furnished

☐ does not comply with the standard

the computer readable form

☐ has not been furnished

☐ does not comply with the standard

☐ the tables related to the nucleotide and/or amino acid sequence listing, if in computer readable form only, do not comply with the technical requirements provided for in Annex C-bis of the Administrative Instructions.

☐ See Supplemental Box for further details.

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International application No.

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Box No. IV

Lack of unity of invention

1. ☒ In response to the invitation (Form PCT/ISA/206) to pay additional fees the applicant has:
- ☐ paid additional fees
- ☐ paid additional fees under protest
- ☒ not paid additional fees
2. ☐ This Authority found that the requirement of unity of invention is not complied with and chose not to invite the applicant to pay additional fees.
3. This Authority considers that the requirement of unity of invention in accordance with Rules 13.1, 13.2 and 13.3 is
- ☐ complied with
- ☒ not complied with for the following reasons:

See supplemental sheet

4. Consequently, this opinion has been established in respect of the following parts of the international application:
- ☐ all parts
- ☒ the parts relating to claims Nos. 1-5

WRITTEN OPINION OF THE
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International application No.

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Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement

1. Statement

Novelty (N)

Claims YES

Claims 1-5 NO

Inventive step (IS)

Claims YES

Claims 1-5 NO

Industrial applicability (IA)

Claims 1-5 YES

Claims NO

2. Citations and explanations:

See supplemental sheet

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

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Box No. VII

Certain defects in the international application

The following defects in the form or contents of the international application have been noted:

See supplemental sheet

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

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Supplemental Box

In case the space in any of the preceding boxes is not sufficient.

Continuation of:

Box IV, V, VII

Literature references cited:

- D1: CA-A-2 367 290 (HYDRO QUEBEC) 16 July 2003
(2003-07-16)
- D2: EP-A-0 760 379 (UNION CARBIDE CHEM PLASTIC) 5 March
1997 (1997-03-05)
- D3: EP-A-0 527 410 (BASF AG) 17 February 1993
(1993-02-17)
- D4: WO 92/09639 A (BAUSCH & LOMB) 11 June 1992
(1992-06-11)
- D5: US-A-5 089 570 (HUTH HANS-ULLRICH ET AL)
18 February 1992 (1992-02-18)

1. Unity (PCT Article 3(4)(iii))

The International Preliminary Examining Authority shares the opinion of the International Searching Authority that the present application fails to meet the requirement of unity. The reasons for this can be seen from the supplemental sheet to the international search report.

The present, international preliminary substantive examination therefore concerns exclusively the subject matters of the present claims 1 to 5.

2. Novelty (PCT Article 33(2))

The present patent claim 1 discloses a polyvinyl polymer based on the general formula IV, IVa or IVb.

Supplemental Box

However, each of the abovementioned literature references D1 to D5 discloses one such polyvinyl polymer having all the technical features as defined in the present claim 1 (cf. the corresponding international search report for the relevant passages of text).

Each of the literature references D1 to D5 are therefore prejudicial to the novelty of current patent claim 1.

Similar considerations likewise apply for the additional features of current claims 2 to 5 in the context of the disclosure of the cited literature references D1 to D5.

Consequently, all the subject matters of the present application are in each case not novel in relation to the disclosure of literature references D1 to D5.

3. Inventive step (PCT Article 33(3))

Following submission of an amended main claim that satisfies the criteria of PCT Article 33(2), the applicant should highlight the distinguishing technical feature and link this either with a surprising technical result or provide *prima facie* evidence that this feature cannot readily be deduced from the teaching of the prior art (PCT Article 33 (3)).

4. Miscellaneous

To increase the comprehensibility of the presentation of the subject matter of the application, the description should additionally cite literature references D1 to D5 and briefly outline the relevant prior art contained therein..

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

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Supplemental Box

Any inadmissible broadening of the application should be avoided.